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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,643	10/20/2000	Pramod K. Srivastava	8449-073-999	8419

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EXAMINER

NAVARRO, ALBERT MARK

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 12/18/2001

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/693,643

Applicant(s)

Srivastava et al

Examiner

Mark Navarro

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-81 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-2, 5-7, 10-11, 14-15, 18-19, 22-23, and 26-42, drawn to a method of inducing immunity, classified in class 424, subclass 184.1.
 - II. Claims 3, 8, 12, 16, 20, 24, and 26-43, drawn to methods of treating an infectious disease, classified in class 424, subclass 184.1.
 - III. Claims 3, 8, 12, 16, 20, 24, 26-43, and 45, drawn to methods of preventing infectious disease, classified in class 424, subclass 184.1.
 - IV. Claims 4, 9, 13, 17, 21, 25-42, 44, and 46, drawn to methods of treating cancer, classified in class 424, subclass 184.1.
 - V. Claims 4, 9, 13, 17, 21, 25-42, 44 and 47, drawn to methods of preventing cancer, classified in class 424, subclass 184.1.
 - VI. Claims 48-54, drawn to kits, classified in class 435, subclass 975.
 - VII. Claims 55-56, 59-60, 63-64, and 67-70, drawn to methods of inducing an immune response with APCs, classified in class 424, subclass 93.1.
 - VIII. Claims 57, 61, 65, and 67-71, drawn to treatment of infectious disease with APCs, classified in class 424, subclass 93.1.
 - IX. Claims 57, 61, 65, and 67-71, drawn to prevention of infectious disease with APCs, classified in class 424, subclass 93.1.

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- X. Claims 58, 62, 66-70 and 72, drawn to treatment of cancer with APCs, classified in class 424, subclass 93.1.
 - XI. Claims 58, 62, 66-70 and 72, drawn to prevention of cancer with APCs, classified in class 424, subclass 93.1.
 - XII. Claims 73-74 and 77-78, drawn to methods of producing an immune response with both heat shock proteins and APCs, classified in class 424, subclass 93.3.
 - XIII. Claims 75 and 77-78, drawn to treating an infectious disease with both heat shock proteins and APCs, classified in class 424, subclass 93.3.
 - XIV. Claims 75, and 77-78, drawn to preventing an infectious disease with both heat shock proteins and APCs, classified in class 424, subclass 93.3.
 - XV. Claims 76-78, drawn to methods of treating cancer with both heat shock proteins and APCs, classified in class 424, subclass 93.3.
 - XVI. Claims 76-78, drawn to methods of preventing cancer with both heat shock proteins and APCs, classified in class 424, subclass 93.3.
 - XVII. Claims 79-81, drawn to methods of improving treatment, classified in class 424, subclass 184.1.
2. The inventions are distinct, each from the other because of the following reasons:
- Invention I, drawn to methods of inducing immunity is distinct from Inventions II-XVII since it requires the in vivo administration of a heat shock protein.

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Invention II, drawn to methods of treating an infectious disease is distinct from Inventions I and III-XVII, since it requires the in vivo administration of a heat shock protein to an individual with an infectious disease and determining the effect.

Invention III, drawn to methods of preventing an infectious disease is distinct from Inventions I-II and IV-XVII, since it requires the in vivo administration of a heat shock protein to an individual not exhibiting symptoms of an infectious disease and monitoring that individual for future signs and symptoms.

Invention IV, drawn to methods of treating a cancer is distinct from Inventions I-III and V-XVII, since it requires the in vivo administration of a heat shock protein to an individual with cancer and determining the effect.

Invention V, drawn to methods of preventing an infectious disease is distinct from Inventions I-IV and VI-XVII, since it requires the in vivo administration of a heat shock protein to an individual not exhibiting symptoms of cancer and monitoring that individual for future signs and symptoms.

Invention VI, drawn to kits, is distinct from Inventions I-V and VII-XVII, since it requires additional biological reagents and parameters.

Invention VII through XI are distinct from each other for the reasons set forth above, and are distinct from Inventions I-VI since they require the administration of a separate and distinct biological reagent having the ability to produce cytokines and undergo independent replication.

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Inventions XII through XVI are distinct from each other for the reasons set forth above, and are distinct from Inventions I-XI since they require the coadministration of a heat shock protein and an APC.

Invention XVII, drawn to methods of improving treatment, is distinct from Inventions I-XVI, since it requires the selection of an individual currently undergoing a therapeutic modality.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their separate classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Navarro whose telephone number is (703) 306-3225.



Mark Navarro

Primary Examiner

December 17, 2001